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**PUC DOCKET NO. 43931
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**APPEAL OF M.E.N. WATER §
SUPPLY CORPORATION, ANGUS §
WATER SUPPLY CORPORATION, §
CHATFIELD WATER SUPPLY §
CORPORATION, CORBET WATER §
SUPPLY CORPORATION, AND §
CITY OF KERENS TO REVIEW §
THE 2014 WHOLESALE WATER §
RATE INCREASE OF THE CITY OF §
CORSICANA, TEXAS §**

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

RATEPAYERS' LIST OF ISSUES

M.E.N. Water Supply Corporation, Angus Water Supply Corporation, Chatfield Water Supply Corporation, Corbet Water Supply Corporation, and the City of Kerens, Texas (the "Ratepayers") hereby submit this List of Issues in response to the Order of Referral issued by the Public Utility Commission of Texas ("Commission") on December 15, 2014 ("Order"). In addition to the request for a list of issues, the Order also permits parties to: (1) identify any issue(s) which should not be addressed in the docket, and (2) identify any threshold legal and/or policy issue(s) which should be briefed for purposes of a preliminary order. This list of issues is timely filed.

This is the second consecutive rate appeal filed by the Ratepayers against the City of Corsicana. Both rate appeals involve the same type of rate structure designed to favor Corsicana's residents and discriminate against its wholesale customers such as the Ratepayers. Similar issues are present in both rate appeals. The first rate appeal, TCEQ Docket No. 2009-1925-UCR; SOAH Docket No. 582-10-1944 (the "2009 Rate Appeal") is still pending on appeal at the First Court of Appeals, Houston, Texas. The outcome of that appeal will likely have significant bearing on this appeal.

This is a wholesale water rate appeal under Chapter 13 of the Texas Water Code ("Chapter 13"), and thus is governed both by Chapter 13 and P.U.C. SUBST. R. 24.128 et. seq. The statutory and administrative rules address some threshold issues and substantive issues relevant to a wholesale water rate appeal. Other issues are unique to the appeals between the Ratepayers and Corsicana.

The Ratepayers' list of issues appears below. However, the Ratepayers do not intend this list to be exhaustive and reserve the right to address additional issues other parties may raise not contemplated herein.

Threshold Issues

1. Issue: May evidence of rate discrimination be considered in a public interest hearing for a wholesale water rate appeal and should there be an abatement until the 2009 Rate Appeal is decided?

Comment: The final decision in the 2009 Rate Appeal will likely decide issues that are key to this appeal. Specifically, in the 2009 Rate Appeal the TCEQ decided, contrary to clear mandatory authority, that evidence of rate discrimination could not be considered in a public interest hearing for a wholesale water rate appeal. The First Court of Appeals is currently reviewing that decision. The issue of whether evidence of rate discrimination must be considered in a public interest hearing is a key issue for this proceeding as well. Other issues relevant to both appeals are also being reviewed by the First Court of Appeals. Therefore, this appeal should be abated until the 2009 Rate Appeal is decided, in the interests of justice, judicial efficiency, and to avoid the possibility of conflicting decisions applying to the same parties.

2. Issue: Is Corsicana's rate increase charged pursuant to a written contract under P.U.C. SUBST. R. 24.131?

Comment: The Ratepayers contend that Corsicana's rate increase "is not charged pursuant to a written contract" as that phrase is used in P.U.C. SUBST. R. 24.131. If Corsicana disagrees and takes the position that its rates are charged pursuant to a written contract, an abatement is required under P.U.C. SUBST. R. 24.131(d).

3. Issue: Should interim rates be established to remain in effect until a final decision is made in this appeal?

Comment: Pursuant to Texas Water Code § 13.043(h) and P.U.C. SUBST. R. 24.29 and 24.41, interim rates may be established to remain in effect until a final decision is made in this appeal. Ratepayers' petition includes a request for such interim rates.

4. Issue: Is a public interest hearing required under P.U.C. SUBST. R. 24.132 or may this appeal proceed direction to an evidentiary hearing on rates?

Comment: The Ratepayers contend that a public interest hearing is not required. Such is not required by the Texas Water Code.

List of Issues

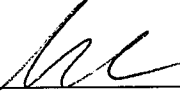
5. What is Corsicana's reasonable and necessary cost of water service to the Ratepayers, calculated in accordance with applicable statutory and regulatory requirements?
6. What are the just, reasonable, and nondiscriminatory water rates that Corsicana may charge the Ratepayers?
7. If it is decided that a public interest hearing is required, do the water rates Corsicana charges the Ratepayers evidence the seller's abuse of monopoly power pursuant to P.U.C. SUBST. R. 24.133(a)(3) after weighing all relevant factors?
8. If it is decided that a public interest hearing is required, do the water rates Corsicana charges the Ratepayers evidence the seller's abuse of monopoly power pursuant to P.U.C. SUBST. R. 24.133(a)(3) after weighing all the factors set forth in P.U.C. SUBST. R. 24.133(a)(3)(A)-(H)?
9. If it is decided that a public interest hearing is required, do the water rates Corsicana charges the Ratepayers evidence the seller's abuse of monopoly power pursuant to P.U.C. SUBST. R. 24.133(a)(3) because the rates are preferential to Corsicana's retail customers and discriminatory to the Ratepayers?
10. If it is decided that a public interest hearing is required, do the water rates Corsicana charges the Ratepayers evidence the seller's abuse of monopoly power pursuant to P.U.C. SUBST. R. 24.133(a)(3) because Corsicana uses the revenue from those water rates to subsidize its wastewater utility?

Issues that Should Not be Addressed

The Ratepayers have not identified any issues which should not be addressed.

Respectfully submitted,

THE TERRILL FIRM, P.C.

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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE


I hereby certify that on January 12, 2015, a true and correct copy of the foregoing *Navarro County Wholesale Ratepayers' List of Issues*, was delivered, as specified below, to the following parties of record:

Mayor Chuck McClanahan
City of Corsicana
200 North 12th Street
Corsicana, TX 75110

via CM/RRR # 7108 1853 1570 0000 0255

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